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7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**
9 **SAN FRANCISCO DIVISION**

10
11 ALLEN SHAHAN,

12 Plaintiff,

13 v.

14 GOLDEN STATE BRIDGE, INC.,

15 Defendant.
16

Case No. 13-cv-03594 NC

**ORDER DENYING MOTION FOR
PARTIAL SUMMARY JUDGMENT**

Re: Dkt. No. 29

17
18 Defendant Golden State Bridge moves for partial summary judgment, arguing that
19 plaintiff is a land-based employee who does not qualify for seaman status under the Jones
20 Act. The Court finds that there are triable issues of material fact and accordingly denies
21 defendant's motion.

22 In *Chandris, Inc. v. Latsis*, the Supreme Court charted a two-part test for determining
23 seaman status. 515 U.S. 347 (1995). The first part of the test, that "an employee's duties
24 must contribute to the function of the vessel or to the accomplishment of its mission," is not
25 contested here. *Id.* at 368 (internal quotation marks omitted). But defendant argues that
26 plaintiff's claim founders on the second part, that "a seaman must have a connection to a
27 vessel in navigation (or to an identifiable group of such vessels) that is substantial in terms
28 of both its duration and its nature." *Id.*

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1 To buoy its argument that plaintiff's connection was insubstantial in duration and
 2 nature, defendant submits evidence it claims reflects plaintiff's lack of "sea-based duties"
 3 and his minimal time aboard vessels in navigation.¹ But plaintiff presents contradictory
 4 evidence regarding the duration and nature of his time aboard defendant's vessels. Plaintiff
 5 claims that he spent half his time aboard defendant's vessels, with upwards of half of that
 6 time being while those vessels were in motion. He testifies that he rode daily on
 7 defendant's crane barge *Ocean Builder* between Mare Island and the job site at Carquinez
 8 Bridge, that he was aboard the *Ocean Builder* while it was moved around the job site by
 9 tugs, and that he worked on defendant's workboat *Munson* by assisting to retrieve work
 10 materials or persons that had fallen into the ocean.

11 Based on this evidence, the Court finds that there are genuine issues of material fact
 12 as to whether plaintiff had a substantial connection to defendant's vessels both in terms of
 13 duration and nature. The question then, whether plaintiff qualifies as a seaman under the
 14 Jones Act, is one for the jury to navigate. *See Scheuring v. Traylor Bros., Inc.*, 476 F.3d
 15 781, 787 (9th Cir. 2007) ("The evidence supporting the plaintiff's Jones Act claim may be
 16 somewhat limited. Nonetheless, the movements of the vessel, albeit relatively minor, and
 17 the sea-based duties of the plaintiff, although ancillary to his core responsibility as a crane
 18 operator, raise genuine issues of material fact which warrant jury consideration.").

19 Accordingly, the Court denies defendant's motion for partial summary judgment.

20 IT IS SO ORDERED.

21 Date: July 7, 2014



22
 23 Nathanael M. Cousins
 24 United States Magistrate Judge
 25
 26

27 ¹ The Court notes that plaintiff has objected to evidence submitted by defendant. Because the Court
 28 finds that the motion must be denied because of the existence of a genuine dispute of material fact,
 the Court need not rule on these objections at this time. Plaintiff may renew his objections at trial.